

UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina



United States of America
v.
Herber Alexsander Gonzales-Escobar
105 Thunder Court
Myrtle Beach, SC 29577

Case No. 1:13MJ-153-1

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 29th, 2013 in the county of United States in the
Middle District of North Carolina, the defendant(s) violated:

Code Section

Title 18 U.S.C. § 641

Offense Description

Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency, or whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, or purloined, or converted, shall be fined or imprisoned no more than ten years, or both.

This criminal complaint is based on these facts:

Please see attached affidavit.

☒ Continued on the attached sheet.

Complainant's signature

Brian G. Thomas, Special Agent, IRS-CI

Printed name and title

Sworn to before me and signed in my presence.

Date: 08/13/2013City and state: Winston Salem, North Carolina

Judge's signature

Joi E. Peake, United States Magistrate Judge

Printed name and title

I, Brian G. Thomas, being duly sworn, depose and state that:

I. INTRODUCTION

1. This affidavit is submitted by a Special Agent of the Internal Revenue Service, Criminal Investigation ("IRS-CI") in support of a complaint and warrant for an arrest of Herber Alexsander Gonzales-Escobar. The core violations of federal law involves theft of public money, property or records, in violation of 18 U.S.C. § 641. This statute provides that whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency, or whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, or purloined, or converted, shall be fined or imprisoned no more than ten years, or both. Herber Alexsander Gonzales-Escobar represents a substantial risk of flight as he is a Honduran citizen and appears to be in the United States illegally.

2. I am employed as a Special Agent of IRS-CI and have been employed in this capacity since March 2005. I am currently assigned to the Charlotte Field Office (Greensboro, NC Post of Duty) and am responsible for investigating criminal violations of the Internal Revenue Code; the currency reporting requirements; the money laundering statutes; false, fictitious, or fraudulent claims; and conspiracy to defraud the government with respect to such claims. During the course of my career as a Special Agent, I have participated in numerous investigations of alleged criminal violations of these statutes. I have completed Criminal Investigator School and the IRS-CI Special Agent Basic Training at the Federal Law Enforcement Training Center in Glynco, GA.

3. The information contained in this affidavit is a combination of this affiant's personal knowledge of this investigation, the knowledge of other duly sworn law enforcement officers or agents, documents obtained from various employers, information obtained from Accurant computer records, information obtained from third-party witnesses, and information obtained from Internal Revenue Service.

4. The information contained in this affidavit is submitted for the purpose of demonstrating probable cause to support a criminal complaint and issuance of an arrest warrant for Herber Alexsander Gonzales-Escobar.

5. Because this affidavit is being submitted for the limited purpose of demonstrating probable cause for a criminal complaint and arrest warrant, it does not contain all the information known to me and/or other law enforcement officers involved in this case.

II. PROBABLE CAUSE

6. In the 1990s, the Internal Revenue Service initiated the Individual Taxpayer Identification Number program to identify resident and nonresident alien taxpayers and efficiently process their individual income tax returns.

7. On July 29, 2013, Herber Alexsander Gonzales-Escobar ("Gonzales-Escobar") was traveling on United States Highway 52 near Pinnacle, Surry County, North Carolina, in the Middle District of North Carolina, and was stopped by a North Carolina Highway Patrol officer for speeding. Gonzales-Escobar and his passenger gave the officer consent to search the vehicle. Inside Gonzales-Escobar's luggage the officer found four United States Treasury checks made payable to individuals with the following initials and social security numbers:

- GRB XXX-XX-3542
- JFA XXX-XX-2905
- HFS-R XXX-XX-2523
- ZWZ XXX-XX-1376

8. These Treasury checks were individually wrapped with identifying documents specific to the taxpayers' name listed on the Treasury checks. These identifying documents included copied social security cards and foreign identification cards as follows:

- Copy of Mexican driver's license in the name of GRB
- Copy of United States social security card in the name of GRB, xxx-xx-3542
- Copy of Mexican consular identification card in the name of HSF-R
- Copy of United States social security card in the name of HSF-R, xxx-xx-2523
- Copy of San Salvador photo identification card in the name of ZWZ
- Copy of United States social security card in the name of ZWZ, xxx-xx-1376
- Copy of Photo identification card in the name of JFA
- Copy of United States social security card in the name of JFA, xxx-xx-2905

9. Gonzales-Escobar was arrested and charged with violations of North Carolina General Statute 14-113.2 (Identity Theft) and 14-100 (Possession / Manufacturing Fraudulent Identification). Gonzales-Escobar was transported to the magistrate's office in Surry County for processing.

10. While in custody, Gonzales-Escobar was read his Miranda warnings in both English and Spanish. He waived his Miranda rights in writing, agreed to be interviewed, and provided officers a statement in which he admitted to being involved in a scheme to defraud the United States Treasury by cashing Treasury checks belonging to other individuals.

11. Gonzales-Escobar admitted that he was involved in a United States Treasury check cashing scheme that has a direct nexus to Forms W-2 being prepared by the person that goes by the name of "Domingo." The form W-2s are used to file fraudulent personal Income Tax returns for the purpose of obtaining a United States Treasury refund check. Gonzales-Escobar identified "Domingo" as the "big fish" and himself as the middleman. "Domingo" provides Gonzales-Escobar with the United States Treasury checks and corresponding identifying documents that will be used to cash the checks. The scheme is widespread and

operates in both North and South Carolina. Gonzales-Escobar admitted to running checks to various check cashing businesses in Raleigh, North Carolina, and Myrtle Beach, South Carolina.

12. Gonzales-Escobar stated he was on his way back from Columbus, Ohio when the North Carolina Highway Patrol officer stopped him. Gonzales-Escobar admitted that he went to Columbus, Ohio to cash the United States Treasury checks. In particular, he attempted to cash the United States Treasury checks find in his luggage, but was unsuccessful.

13. Gonzales-Escobar admitted that what he did was “wrong, but others were worse.” Gonzalez-Escobar stated that “Domingo” obtains names, social security numbers, and other personal identifying information from Florida, and prepares the Forms W-2 in the names of these individuals. Domingo provided Gonzales-Escobar with two forms of identification per individual and the endorsed United States Treasury check. Gonzales-Escobar takes the endorsed United States Treasury check and corresponding identification to the check cashier. Once the checks are cashed, Escobar provides “Domingo” with cash, and Gonzalez-Escobar receives approximately \$200 to \$300 of compensation per batch of checks he cashes.

14. According to the Internal Revenue Service (IRS) records, the four United States Treasury checks found inside Gonzales-Escobar’s luggage are affiliated with tax forms 1040, all of which were submitted electronically and accepted on or about June 24, 2013.

15. IRS records indicate that prior to the acceptance of the tax forms on June 24, 2013, previous attempts were made to file tax forms 1040 or 1040EZ in the names of these individuals on or about June 23, 2013. These tax forms were rejected by the IRS because the attached Forms W-2 listed an employer and corresponding employer identification number (EIN) did not match one another in the IRS’s databases.

16. The tax return filed in the name of GBG contains an attached W-2 reporting wages and tax withholding from a medical practice in Bellevue, New Jersey. I contacted a representative of this business, and I was informed that GBG never worked for that business, did not receive any wages from this business, did not have any taxes withheld on his behalf by this business, and had no other connection with the business. Based on this evidence, I believe this W-2 is fictitious and was created solely to aid a fraudulent claim for a tax refund.

17. The tax return filed in the name of ZWZ contains an attached W-2 reporting wages and tax withholding from a dental practice in Brooklyn, New York. I contacted a representative of this business, and I was informed that ZWZ never worked for that business, did not receive any wages from this business, did not have any taxes withheld on his behalf by this business, and had no other connection with the business. Based on this evidence I believe this W-2 is fictitious and was created solely to aid a fraudulent claim for a tax refund.

18. The tax return filed in the name of HFS-R contains an attached W-2 reporting wages and tax withholding from an electrical contracting business in Clyde, NY. I contacted a representative of this business, and I was informed that HFS-R never worked for that business, did not receive any wages from this business, did not have any taxes withheld on his behalf by this business, and had no other connection with the business. Based on this evidence I believe this W-2 is fictitious and was created solely to aid a fraudulent claim for a tax refund.

19. The typical filing season for taxpayers is January to April 15. According to IRS records, from May 25, 2013 to August 02, 2013, IRS has received approximately 548 tax forms claiming refunds totaling \$3,588,647 with characteristic's similar to the four Treasury checks taken off of Herber Alexsander Gonzales-Escobar. Specifically, these returns appear to originate from a small number of common (i) Internet Protocol (IP) addresses, (ii) return preparers, and

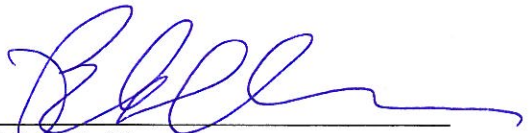
(iii) Electronic Filing Identification Numbers (EFIN). An Electronic Filing Identification Number is a unique identifying number issued by the IRS to professional tax return preparers that allows such return preparers to file tax returns electronically.

20. According to the information obtained from Accurint computer records, the taxpayers listed on the tax returns and on the United States Treasury checks listed at the following locations from January of 1999 through August of 2013:

- GRB, XXX-XX-1376
HC 1 Box 5219
Juana Diaz, PR 00795-9804
- JFA XXX-XX-2905
14 Calle Areyto
Fajardo, PR 00738
- HFS-R, XXX-XX-2523
B9 Calle 14
Toa Alta, PR 00953-4203
- ZWZ ,XXX-XX-2523
H7 Calle Apt D
P.O. Box 233
Aguadilla, PR 00604-0233


III. CONCLUSION

21. Based on the foregoing, I submit there is probable cause to believe that on or about July 29, 2013 through present time, in Stokes County, within the Middle District of North Carolina, Gonzales-Escobar, knowingly converted, conveyed, received, transported and retained the above-described United States Treasury checks in the total amount of \$26,701.00 with the intent to convert them to his own use or gain knowing them to have been stolen or purloined or converted in violation of Title 18 U.S.C. § 641.



Brian G. Thomas
Special Agent, IRS CI

Sworn to before me and subscribed before me in my presence the 13th day of August, 2013.



JOIE. PEAKE
United States Magistrate Judge